

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

GLUTEN INTOLERANCE GROUP OF NORTH) NO.
AMERICA, a Washington nonprofit organization,)

Plaintiff,)

vs.)

JAMIE OLIVER FOOD FOUNDATION, INC., a)
Delaware corporation; JAMIE OLIVER)
ENTERPRISES LTD., a foreign entity doing)
business in the United States; JAMIE T. OLIVER,)
an individual,)

Defendants.)

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- (1) Federal Certification Mark Infringement
under the Lanham Act,
15 U.S.C. § 1125(d)
- (2) Counterfeiting of Registered Mark
Under the Lanham Act, 15 U.S.C. §
1114
- (3) Unfair Competition and False
Designation of Origin under the Lanham
Act, 15 U.S.C. § 1125(a)
- (4) Common Law Trademark Infringement
- (5) Common Law Unfair Competition
- (6) Unfair Business Practices under RCW
19.86, *et seq.*

Plaintiff, GLUTEN INTOLERANCE GROUP OF NORTH AMERICA (“GIG” or
“Plaintiff”), by and through its undersigned counsel of record, hereby alleges and complains against
Defendants JAMIE OLIVER FOOD FOUNDATION, INC., JAMIE OLIVER ENTERPRISES, LTD,

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41O2049-GIG COMPLAINT 2 - Proper USDC Western Dist. format

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1 and JAMIE OLIVER, an individual (collectively “Oliver” or “Defendants”), as follows:

2 **NATURE OF ACTION**

3
4 This is an action for federal certification mark infringement, counterfeiting, and unfair
5 competition under federal statutes, with pendent claims for trademark infringement, and unfair
6 competition under RCW 19.86 et seq., and common law. Plaintiff seeks damages, attorneys’ fees,
7 costs, and preliminary and permanent injunctive relief.

8 **JURISDICTION**

9
10 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§1331
11 and 1338(a), and 15 U.S.C. § 1121. This Court has supplemental jurisdiction over Plaintiff’s state
12 law claims pursuant to 28 U.S.C. § 1367(a).

13
14 2. This Court has personal jurisdiction over the Defendants based upon the following:
15 (a) Defendants operate a website on the Internet that is accessible to residents of the State of
16 Washington; (b) Defendants have engaged in business activities in the state, specifically in Seattle
17 and other locations; and (c) Defendants committed tortious acts that they knew or should have known
18 would cause injury to Plaintiff in the State of Washington, including the unauthorized use of an
19 identical or similar certification mark to Plaintiff’s federally registered marks used to denote gluten-
20 free food products.

21
22 3. Venue is proper in the United States District Court for the Western District of
23 Washington under 28 U.S.C. § 1391(b) in that the asserted claims arose within the district and that
24 the Defendants, or their agents, conduct business within this district.
25
26

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THE PARTIES

FACTS RELEVANT TO PLAINTIFF

4. Plaintiff GIG is a Washington non-profit organization with its principal place of business in Auburn, Washington.

5. For over four decades, GIG has been a consumer advocate offering support and educational services, and ongoing research for not only to those with gluten-related disorders but to everyone who has made the decision to live gluten-free. With the continued recognition of gluten-free dietary needs and the recent emphasis on gluten-free products and offerings, GIG's role in the community is more important now than ever in that consumers wanting gluten-free products have a way to ensure those products are, in fact, gluten-free.

6. GIG is a world leader in food safety certification for gluten-free foods and products and many food manufacturers and retailers, restaurants, and health concerned organizations and individuals apply for gluten-free certification from GIG. GIG's Board of Directors includes researchers and medical professional to ensure GIG's comprehensive certification program maintains strict certification standards to verify the quality, purity, and integrity of gluten-free products.

7. GIG owns numerous federal registrations and applications including the following federal marks:

- a. GLUTEN INTOLERANCE GROUP, Reg. No. 2674249, Date of First use May 1976, for gluten intolerance educational and teaching materials.
- b. GIG, Reg No. 2600920, Date of First use May 1976, for conducting gluten intolerance classes, seminars and conferences.

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1 c. CERTIFIED GLUTEN-FREE WORD AND DESIGN MARK:



8 Reg. No. 3443344, Date of First use November 2006, for food substances and

9 products for medical use, such as for diabetics.

10 d. GLUTEN INTOLERANCE GROUP word and design mark:



16 Serial No. 87406494, Date of First use January 2011, for food substances and products

17 for medical use, such as for diabetics.

18 e. GF word and design mark:



24 Serial No. 87413837, Date of First use December 2005, for food substances and

25 products for medical use, such as for diabetics.

26 8. The United States Patent and Trademark Office required GIG to provide its

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1 certification standards and guidelines before granting GIG the certification marks.

2 9. GIG's marks have obtained international protection in numerous countries under the
3 Madrid Protocol, and GIG also has a European Registration for:
4



6
7
8
9
10 Registration No. EU011881687.

11 10. GIG's marks collectively referred to hereinafter as the "GF Certification Marks."

12 11. GIG's marks stand for the independent verification of quality, integrity, and purity of
13 its products. Products carrying GIG's marks represent the unmatched reliability for meeting strict
14 gluten-free standards. *See* www.gfco.org. Only when a company has been certified gluten-free by
15 GIG is that company permitted to use GIG's certification marks on, and in connection with, their
16 goods, thereby notifying consumers that their product has satisfied the stringent standards for being
17 certified gluten-free by GIG.
18
19

20 **FACTS RELEVANT TO DEFENDANTS**

21 12. Upon information and belief, Defendant Jamie Oliver is a well-known chef doing
22 business in the United States through Defendant company Jamie Oliver Food Foundation, Inc. and
23 Jamie Oliver Enterprises, Ltd.
24

25 13. Upon information and belief, Defendants are largely based in the United Kingdom,
26 and Defendants have conducted numerous business ventures and television projects throughout the

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1 United States, which include:

- 2 a. Jamie's Food Revolution, a television series which aired on ABC;
- 3
- 4 b. Jamie's American Road Trip, a television series filmed across the United States for
- 5 UK television;
- 6 c. Dream School, USA, a television series with executive producer, Jamie Oliver;
- 7
- 8 d. Oliver appeared as a challenger on "Iron Chef America," taking on Iron Chef Mario
- 9 Batali in 2008;
- 10 e. Oliver was one of the judges in "Oprah's Big Give," hosted by Oprah Winfrey in the
- 11 United States in 2008; and
- 12 f. Oliver searched and interviewed for contestants throughout the United States as part of
- 13 his "search for a food tube star" contest for "the next cooking sensation," selecting a
- 14 youngster from Woodinville, Washington, as a finalist.
- 15

16 14. Upon information and belief, Oliver has published over twenty (20) books, including
17 '5 Ingredients – Quick and Easy' which incorporates gluten-free recipes and use of the Applicant's
18 GF Circle logo on each recipe page and which can be purchased on Amazon.com.

19
20 15. Oliver also sells his name brand culinary-related items on United States retail
21 websites, such as on Amazon.com and Wayfair.com.

22 16. Upon information and belief, Oliver has a large consumer following in the United
23 States earning him the title "Celebrity Chef."

24
25 17. Defendants own several Federally registered trademarks to support and protect their
26 business projects and intellectual property in the United States. Such marks include:

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- a. JAMIE OLIVER, Reg. No. 2869105;
- b. JAMIE OLIVER, Reg. No. 2866527;
- c. JAMIE OLIVER, Reg. No. 3344407;
- d. JAMIE'S ITALIAN, Reg. No. 3623079; and
- e. FOOD REVOLUTION, Reg. No. 4908973.

18. Defendants' marks are all for goods and services related to the fields of cooking, foods, restaurant services, and marketing and promotion related to the culinary arts.

19. Upon information and belief, Oliver does not have a mark registered in the United States that is identical or similar to any of GIG's marks.

20. Upon information and belief, Oliver does not claim to have any certification marks registered in the United States for programs relating to gluten-free foods, products, recipes, or programs.

21. Oliver operates a website under <www.jamieoliver.com>. The website provides comprehensive information about food, healthy eating and significantly, gluten-free recipes. Along with the numerous gluten-free recipes, the website displays the following mark hereinafter referred to herein as the GF Counterfeit Mark:



See, e.g., <https://www.jamieoliver.com/recipes/fruit-recipes/oranges-and-polenta-cake/> (accessed Sept. 22, 2017); <https://www.jamieoliver.com/recipes/pork-recipes/pork-mash-gratin/> (accessed Sept.

1 22, 2017); <https://www.jamieoliver.com/recipes/beef-recipes/ginger-shakin-beef/> (accessed Sept. 22,
2 2017). The mark showing “GF” in a circle, is identical or substantially similar to GIG’s marks and
3 upon information and belief is intended to falsely certify that Oliver’s recipes are gluten-free.
4

5 22. Upon information and belief, Defendants have not sought any form of gluten-free
6 certification from any entity in the United States, or even in the United Kingdom.

7 23. In pre-litigation communications between the parties, Defendants had the opportunity
8 to identify their right to use a GF mark, or to identify any certification program they subscribed to
9 ensuring Oliver’s followers are properly advised about the gluten content of food products and
10 recipes claiming to be gluten-free. Defendants failed to do so.
11

12 24. Through use of a mark identical or substantially similar to Plaintiff’s gluten-free
13 certification marks, Defendants attempt to affiliate themselves, their food programs, and recipes, with
14 Plaintiff.
15

16 25. Through use of a mark identical or substantially similar to Plaintiff’s gluten-free
17 certification marks, Defendants attempt to mislead the public into believing Defendants’ food-related
18 programs and recipes have been certified by Plaintiff as gluten-free, when they have not.
19

20 26. Through use of a mark identical or substantially similar to Plaintiff’s gluten-free
21 certification marks, should any of Defendants’ customers, patrons, or followers suffer medical and
22 health damage based upon Defendants’ false certification that their foods are gluten-free, Plaintiff
23 may well be blamed for such harm because the GF Counterfeit Mark used by the Defendants is
24 identical, or substantially similar to, GIG’s GF Certification Marks.
25

26 27. By using a false certification mark containing Plaintiff’s mark, Defendants are

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1 attempting to trade on the goodwill of Plaintiff.

2 28. By using a false certification mark containing Plaintiff's mark, Defendants are
3 attempting to create an association between the goods and services offered by Defendants and
4 Plaintiff's well-known certification marks.
5

6 29. Upon information and belief, Defendants have no trademark or other intellectual
7 property rights in a GF name or mark.
8

9 30. Upon information and belief, Defendants did not believe or have reasonable grounds
10 to believe that the use of the GF Counterfeit Mark was a fair use or otherwise lawful.

11 **FIRST CLAIM FOR RELIEF**
12 (Federal Certification Mark Infringement under the
13 Lanham Act, 15 U.S.C. § 1114)

14 31. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
15 herein.

16 32. Defendants' GF Counterfeit Mark is identical to, or substantially indistinguishable
17 from, Plaintiff's GF Certification Marks in appearance, sound, meaning, and commercial impression,
18 such that: (i) the use thereof is likely to cause confusion, mistake, and deception as to the
19 authorization and/or certification of Defendants' goods and services; (ii) the public is likely to be
20 confused, deceived, and to assume erroneously that Defendants' goods and services have been
21 certified as gluten-free, or that Defendants are in some way connected with, licensed, authorized,
22 certified by, or affiliated with GIG; and (iii) this use will irreparably injure and damage GIG and the
23 goodwill and reputation symbolized by the GF Certification Marks.
24
25

26 33. Likelihood of confusion is also enhanced by the fact that the GF Counterfeit Mark and

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1 the GF Certification Marks prominently incorporate the key component “GF” within a circle.

2 34. Defendants are not an affiliate of or connected with GIG, have not been endorsed or
3 sponsored by GIG, and GIG has not approved any of Defendants’ goods or services offered or sold
4 (or intended to be sold by) Defendants under the GF Counterfeit Mark.
5

6 35. Defendants have never sought nor obtained the permission of GIG to use the GF
7 Counterfeit Mark, nor has GIG certified any of Defendants’ goods or services offered under
8 Defendants’ GF Counterfeit Mark.
9

10 36. GIG’s United States Trademark Registrations set out above provide, at the very least,
11 constructive notice to Defendants of the rights of GIG in and to the GF Certification Marks.

12 37. Defendants’ use of the GF Counterfeit Mark in connection with Defendants’ goods
13 and services is likely to cause confusion, mistake, and/or deception to consumers as to the
14 authorization or certification of the goods, in violation of the Lanham Act, including but not limited
15 to 15 U.S.C. § 1114.
16

17 38. Consumers are likely to purchase Defendants’ goods and services being offered under
18 the GF Counterfeit Mark, believing them to have been certified gluten-free by GIG, thereby resulting
19 in a loss of goodwill and economic harm to GIG, particularly if consumers encounter adverse effects
20 from the purchase or use of Defendants’ uncertified goods and services.
21

22 39. Upon information and belief, Defendants intentionally adopted and use the GF
23 Counterfeit Mark so as to create consumer confusion and traffic of GIG’s reputation and goodwill
24 under the GF Certification Marks.
25

26 40. GIG is informed and believes, and on that basis alleges that, Defendants have derived

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1 unlawful gains and profits from their infringing use of the GF Counterfeit Mark.

2 41. The goodwill of GIG's business under the GF Certification Marks is of great value
3 and GIG will suffer irreparable harm should Defendants' infringement be allowed to continue to the
4 detriment of the trade reputation and goodwill of GIG, for which damage GIG cannot be adequately
5 compensated at law.
6

7 42. GIG has no control over the quality of the goods offered by Defendants. Thus, the
8 great value of the GF Certification Marks is subject to damage by an entity it cannot control.
9

10 43. Unless Defendants are enjoined by this Court from so doing, GIG will continue to
11 suffer irreparable harm and injury to its reputation and goodwill.

12 44. Upon information and belief, Defendants have engaged in acts of infringement, with
13 knowledge of GIG's exclusive rights in and to the GF Certification Marks in connection with GIG's
14 certification services. Defendants' continued acts of intentional infringement, entitle GIG to an
15 award of treble damages, disgorgement of Defendants' profits, and attorneys' fees and costs in
16 bringing and maintaining this action, pursuant to Section 35(b) of the Lanham Act, 15 U.S.C. §
17 1117(b).
18
19

20 **SECOND CLAIM FOR RELIEF**

21 (Counterfeit of Registered Mark under the Lanham Act, 15 U.S.C. § 1114)

22 45. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
23 herein.
24

25 46. GIG owns valid and incontestable rights in the United States for the GF Certification
26 Marks, as set out above.

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1 47. Well before any of Defendants' actions complained of herein were committed, GIG
2 had continuously used the GF Certification Marks throughout the United States in connection with its
3 Certification Services.
4

5 48. Defendants use a non-genuine version of the GF Certification Mark that is identical to,
6 or substantially indistinguishable from, the GF Certification Marks.
7

8 49. The GF Certification marks are registered on the Principle Register as certification
9 marks, and Defendants are intentionally using the GF Counterfeit Mark to falsely suggest that
10 Defendants' goods and services have been certified by GIG when they have not.
11

12 50. GIG did not authorize Defendants' use of the GF Counterfeit Mark, and such
13 unauthorized use of the GF Certification Marks is likely to confuse consumers into falsely believing
14 that Defendants' goods and services are authorized or certified as gluten-free by GIG when, in fact,
15 they are not.
16

17 51. Defendants' use of the GF Counterfeit Mark without consent from GIG was and is a
18 willful and intentional infringement of GIG's registered GF Certification Marks.
19

20 52. Defendants have profited from their acts of infringement. GIG is entitled to recover
21 Defendants' profits arising from the infringement, any damages sustained by GIG, and an enhanced
22 award of profits and/or damages to fully and adequately compensate it for Defendants' infringement.
23 At its election, GIG is also entitled to statutory damages.
24

25 53. Defendants have caused, and unless enjoined by this Court, will continue to cause
26 irreparable injury to GIG that is not fully compensable in monetary damages. GIG is therefore
entitled to a preliminary and permanent injunction enjoining and restraining Defendants from use of

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1 the GF Certification Marks or any other mark that is confusingly similar to the GF Certification
2 Marks.

3
4 **THIRD CLAIM FOR RELIEF**
5 (Unfair Competition and False Designation of Origin under the
6 Lanham Act, 15 U.S.C. § 1125(a))

7 54. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
8 herein.

9 55. Defendants' use of the GF Counterfeit Mark constitutes unfair competition and a false
10 designation of origin or false or misleading description or representation of fact, which is likely to
11 deceive customers and prospective customers into believing that Defendants' goods and services
12 offered for sale under Defendants' GF Counterfeit Mark have been certified gluten-free by GIG, in
13 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

14 56. Defendants' actions cause, or are likely to cause, confusion or mistake among the
15 public as to the authorization or certification of Defendants' goods and services offered for sale under
16 Defendants' GF Counterfeit Mark, or to confuse the public into believing that Defendants' goods and
17 services have the gluten-free approval of GIG or are otherwise affiliated, connected, associated with,
18 or sponsored by GIG, in violation of Section 43(a) of the Lanham Act 15 U.S.C. § 1125(a).

19 57. GIG has no control over the nature and quality of the Defendants' goods and services
20 offered for sale under Defendants' GF Counterfeit Mark. Any failure, neglect, harm, or default of
21 Defendants in providing the falsely certified goods or services will reflect adversely on GIG.

22 58. Upon information and belief Defendants intentionally adopted and use the GF
23 Counterfeit Mark so as to create consumer confusion and traffic off of GIG's reputation and good
24
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26

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1 will under the GF Certification Marks.

2 59. GIG is informed and believes, and on that basis alleges, that Defendants have derived
3 unlawful gains and profits from their infringement of the GF Certification Marks.
4

5 60. The goodwill of GIG's business under the GF Certification Marks is of great value
6 and GIG will suffer irreparable harm to its trade reputation and goodwill, should Defendants' acts of
7 unfair competition and false representation and designations be allowed to continue.
8

9 61. GIG has no control over the quality of the goods and services offered by the
10 Defendants. Thus, the value of the GF Certification Marks are subject to damage by entities and
11 individuals it cannot control. Unless enjoined by this Court from so doing, Defendants will continue
12 to engage in acts of unfair competition and false representation and designation, to the irreparable
13 damage and injury of GIG.
14

15 62. Upon information and belief, from the outset, Defendants have engaged in acts of
16 unfair competition and false representation and designation, with knowledge of the exclusive rights
17 of GIG in and to the GF Certification Marks, and Defendants continue in such acts of unfair
18 competition and intentional false representation and designation, thus entitling GIG to an award of its
19 actual damages, disgorgement of Defendants' profits, and attorneys' fees and costs in bringing and
20 maintaining this action, pursuant to Section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a).
21

22 **FOURTH CLAIM FOR RELIEF**
23 (Common Law Trademark Infringement)

24 63. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
25 herein.
26

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1 64. Plaintiff has been using its GF Certification Marks in the United States since at least
2 2005 and has generated strong common law trademark rights in the marks.

3
4 65. Defendants' GF Counterfeit Mark is identical to, or substantially indistinguishable
5 from Plaintiff's marks in appearance, sound, meaning, and commercial impression, such that the use
6 thereof is likely to cause confusion, mistake, and deception as to the authorization and/or certification
7 of Defendants' goods and services, and that the public is likely to be confused, deceived, and to
8 assume erroneously that Defendants' goods and services have been certified as gluten-free, or that
9 Defendants are in some way connected with, licensed, authorized, certified by, or affiliated with GIG
10 and will irreparably injure and damage GIG and the goodwill and reputation symbolized by the GF
11 Certification Marks.
12

13 66. Likelihood of confusion is also enhanced by the fact that the GF Counterfeit Mark,
14 and the GF Certification Marks prominently incorporate the key component "GF" within a circle.
15

16 67. Defendants are not an affiliate of, or connected with, GIG, and have not been endorsed
17 or sponsored by GIG, nor has GIG approved any of Defendants' goods or services offered or sold (or
18 intended to be sold) by Defendants under the GF Counterfeit Mark.
19

20 68. Defendants have never sought nor obtained the permission of GIG to use the GF
21 Counterfeit Mark, nor has GIG certified any of Defendants' goods or services offered under
22 Defendants' GF Counterfeit Mark.
23

24 69. Defendants' use of the GF Counterfeit Mark in connection with Defendants' goods
25 and services is likely to cause confusion, mistake, or deception to consumers as to the authorization
26 or certification of the goods, in violation of Plaintiff's common law trademark rights.

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1 70. Consumers are likely to purchase Defendants' goods and services being offered under
2 the GF Counterfeit Mark believing them to have been certified gluten-free by GIG, thereby resulting
3 in a loss of goodwill and economic harm to GIG, particularly if consumers encounter adverse effects
4 from the purchase or use of Defendants' uncertified goods and services.

6 71. Upon information and belief, Defendants intentionally adopted and use the GF
7 Counterfeit mark so as to create consumer confusion and traffic of GIG's reputation and goodwill
8 under the GF Certification Marks.

10 72. GIG is informed and believes, and on that basis alleges, that Defendants have derived
11 unlawful gains and profits from their infringing use of the GF Counterfeit Mark.

12 73. The goodwill of GIG's business under the GF Certification mark is of great value and
13 GIG will suffer irreparable harm should Defendants' infringement be allowed to continue to the
14 detriment of the trade reputation and goodwill of GIG for which damage GIG cannot be adequately
15 compensated at law.

17 74. GIG has no control over the quality of the goods offered by Defendants. Thus, the
18 great value of the GF Certification Marks is subject to damage by an entity it cannot control.

20 75. Unless Defendants are enjoined by this Court from so doing, GIG will continue to
21 suffer irreparable harm and injury to its reputation and goodwill.

22 76. Upon information and belief, Defendants have engaged in acts of common law
23 trademark infringement, with knowledge of GIG's exclusive rights in and to the GF Certification
24 Marks in connection with GIG's certification services. Defendants' continued acts of intentional
25 infringement, entitle GIG to an award of damages, disgorgement of Defendants' profits, and
26

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1 attorneys' fees and costs in bringing and maintaining this action.

2 **FIFTH CLAIM FOR RELIEF**
3 (Common Law Unfair Competition)

4 77. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
5 herein.

6 78. By engaging in the conduct alleged above, Defendants have unlawfully and unfairly
7 competed with Plaintiff as a matter of common law.

8 79. Upon information and belief, Defendants' use of the Infringing GF Certification Mark
9 is willful and with the intent of misappropriating and trading upon Plaintiff's goodwill and reputation.
10 Plaintiff is entitled to punitive damages.
11

12 80. As a direct and proximate result of such unfair competition, Plaintiff has suffered, and
13 will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.
14

15 **SIXTH CLAIM FOR RELIEF**
16 (Unfair Business Practices under RCW 19.86, *et seq.*)

17 81. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
18 herein.

19 82. Defendants' use in commerce within the State of Washington of a false certification
20 mark identical and/or confusingly similar to Plaintiff's certification mark in connection with
21 Defendants' gluten-free related programs and foods, constitutes an unfair method of competing in
22 business and unfair trade practices, as well as fraudulent representations, which is damaging to the
23 public interest in violation of Washington Consumer Protection Act, RCW § 19.86.020.
24

25 83. Defendants' use in commerce of Plaintiff's mark and/or a mark confusingly similar to
26

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1 Plaintiff's certification mark with the knowledge that Plaintiff owns and has used, and continues to
2 use, its mark constitutes intentional conduct by Defendants to engage in unfair business practices.

3
4 84. As a direct and proximate result of such unfair competition, Plaintiff has suffered, and
5 will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

6 **ALLEGATIONS OF DAMAGE COMMON TO ALL CLAIMS FOR RELIEF**

7 85. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
8 herein.

9
10 86. GIG has suffered, is suffering, and will continue to suffer irreparable harm and
11 damage as a result of Defendants' wrongful conduct. Defendants will, unless restrained and
12 enjoined, continue to act in the unlawful manner complained of herein, all to the irreparable damage
13 of the business and reputation of GIG. GIG's remedy at law is not adequate to compensate it for the
14 injuries suffered and threatened.

15
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays that the Court grant the following relief:

18 A. Enter a judgment in favor of GIG and against Defendants, jointly and severally, on all
19 counts alleged herein;

20 B. Designate this action an exceptional case entitling GIG to an award of its reasonable
21 attorneys' fees incurred as a result of this action, pursuant to 15 U.S.C. §1117;

22 C. Issue preliminary and permanent injunctive relief against Defendants, and each of
23 them, and their respective officers, agents, representatives, servants, employees, attorneys, successors
24 and assigns, and all others in active concert or participation with Defendants, enjoining and
25
26

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1 restraining them from:

- 2 i. Imitating, copying, or making any other infringing use of the GF Certification
3 Marks by Defendants' GF Counterfeit Mark, and any other mark confusingly
4 similar to the GF Certification Mark;
5
- 6 ii. Manufacturing, assembling, producing, distributing, offering for distribution,
7 circulating, selling, offering for sale, advertising, importing, promoting, or
8 displaying any simulation, reproduction, counterfeit, copy, or colorable imitation
9 of the GF Certification Mark, Defendants' Counterfeit Mark, or any mark
10 confusingly similar thereto;
11
- 12 iii. Using any false designation of origin or false description or statement that can or is
13 likely to lead the trade or public or individuals erroneously to believe that any
14 good has been provided, produced, distributed, offered for distribution, circulation,
15 sold, offered for sale, imported, advertised, promoted, displayed, licensed,
16 sponsored, approved, or authorized by or for GIG, when such is not true in fact;
17
- 18 iv. Using the names, logos, or other variation thereof of the GF Certification Marks,
19 or Defendants' GF Counterfeit Mark in any of Defendants' trade or corporate
20 names;
21
- 22 v. Engaging in any other activity constituting an infringement of the GF Certification
23 Marks or of the rights of GIG in, or right to use or to exploit the GF Certification
24 Marks; and
25
- 26 vi. Assisting, aiding, or abetting any other person or business entity in engaging in or

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1 performing any of the activities referred to in the subparagraphs (i) through (v)
2 above;

3
4 D. Order Defendants, at their own expense, to recall all products and marketing,
5 promotional, and advertising materials that bear or incorporate Defendants' GF Counterfeit Mark, or
6 any mark confusingly similar to the GF Certification Mark, which have been manufactured,
7 distributed, sold, or shipped by Defendants or on their behalf, and to reimburse all customers from
8 which said materials are recalled.

9
10 E. Order Defendants to immediately produce and turn over to GIG's counsel all products,
11 labels, signs, prints, packages, molds, plates, dies, wrappers, receptacles, and advertisements in its
12 possession or under its control, bearing the Defendants' GF Counterfeit Mark, and/or any
13 simulation, reproduction, copy, or colorable imitation thereof, and all plates, molds, matrices, and
14 any other means of making the same.

15
16 F. Order Defendants to publish notice to all customers or members of the trade who may
17 have seen or heard of Defendants' use of Defendants' GF Counterfeit Mark, which notice shall
18 disclaim any connection with GIG and shall advise them of the Court's injunction order and of
19 Defendant's discontinuance from all use of Defendants' GF Counterfeit Mark;

20
21 G. Order Defendants to file with this Court and to serve upon GIG within thirty (30) days
22 after service upon Defendants of any injunction in this action, a written report by Defendants, under
23 oath, setting forth in detail the manner in which Defendants have complied with the injunction.

24
25 H. Order Defendants to pay the costs of corrective advertising;

26 I. Order Defendants to hold in trust, as constructive trustees for the benefit of GIG, its

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1 profits obtained from its provision of the Defendants' goods and services offered for sale under
2 Defendants' GF Counterfeit Mark;

3
4 J. Order Defendants to provide GIG a full and complete accounting of all amounts due
5 and owing to GIG as a result of Defendants' illegal activities;

6 K. Order Defendants to pay the general, special, actual and statutory damages of GIG as
7 follows:

8
9 i. GIG's damages and Defendants' profits pursuant to 15 U.S.C. § 1117(a), trebled
10 pursuant to 15 U.S.C. § 117(b) for Defendants' willful violation of the federally
11 registered certification marks of GIG; and

12 ii. If GIG so elects, statutory damages of up to \$2,000,000.00 per counterfeit mark,
13 per type of product sold, offered for sale, or service distributed, or for services
14 rendered pursuant to 15 U.S.C. § 1117(c);

15
16 L. Order Defendants to pay GIG both the costs of this action and reasonable attorneys'
17 fees incurred by GIG in prosecuting this action, pursuant to 15 U.S.C. § 1117(a);

18
19 M. Award GIG its prejudgment interest; and

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26
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1 N. Award such other and further relief as the Court deems just and proper.

2 DATED: this 26th day of September, 2017.

3
4 **JEFFERS, DANIELSON, SONN & AYLWARD,**
5 **P.S.**

6 */s/ Laraine M. I. Burrell*
7 _____

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